



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

**Thomas S. Burack, Commissioner**



May 9, 2008

Joyce Lacerda, Cooperative Programs Specialist  
National Marine Fisheries  
National Oceanic & Atmospheric Administration  
One Blackburn Drive  
Gloucester, MA 01930

Dear Ms. Lacerda:

Enclosed please find the seventh semi-annual status report for the NH Instream Flow Pilot Program for the Lamprey and Souhegan Rivers, Assistance Agreement No. NA04NMF4540382 for the project period 10/01/07 through 3/31/08. In accordance with NOAA Administrative Standard Award Conditions Attachment B, Section B, as a condition of the acceptance of Department of Commerce funds, Performance/ Progress Reports are to be submitted.

Sincerely,

C. Wayne Ives, P.G., Hydrogeologist  
Watershed Management Bureau

Attachment

## **SEMIANNUAL PROGRESS REPORT 10/01/07 through 3/31/08**

**A. Grant Number:** NA04NMF4540382  
**B. Amount of Grant:** Federal - \$545,000; Match - \$0; Total - \$545,000  
**C. Project Title:** New Hampshire Instream Flow Pilot Program for the Lamprey and Souhegan Rivers  
**D. Grantee:** New Hampshire Department of Environmental Services  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
FEIN – 02-6000-618W  
**E. Award Period:** From 10/1/2004 to 9/30/2008

### **F. Summary of Progress and Expenditures to Date**

#### **1. Work Accomplishments**

The work tasks were defined in DES's grant application dated June 8, 2004. The grant application defined the schedule for conducting the work elements as being carried out roughly over the period September 1, 2004 through December 1, 2008. The schedule identified some tasks out 48 months from the beginning of the work effort. During the last reporting period, DES was granted an extension of the grant period to September 30, 2008. DES's deadline for the Lamprey and Souhegan Pilot programs is written in statute, which requires both pilots' studies and water management plans to be completed by October 1, 2007. This date has been passed and legislation has been introduced in the state legislature to extend this date to October 1, 2009.

The 2004 grant application summarized the work to be completed under the grant as follows: The primary goal is to complete the Instream Flow Pilot Program as described under the Instream Flow Rules (Env-Ws 1900) and the state statutes governing Instream Flow (RSA 483). The Instream Flow Pilot Program includes the Souhegan and Lamprey Designated Rivers. To complete this goal several work elements must be completed. DES has contracted out some of the required work elements described under the Instream Flow Rules and retains the remaining elements. Contractual Scope of Work tasks are being conducted on the Souhegan by the University of New Hampshire (UNH); and on the Lamprey, by Normandeau Associates, Inc. (NAI). The Pilot Program includes the following elements:

1. Convene and administer a Lamprey River Technical Review Committee
2. Convene and administer a Lamprey River Water Management Advisory Committee
3. Prepare a detailed work scope for a contractor to prepare a Protected Instream Flow Study and a Water Management Plan for the Lamprey River Designated Reach
4. Procure a contractor, administer the contract, and review technical work products
5. Conduct committee hearings for feedback on technical and stakeholder decisions
6. Conduct public hearings at project milestones and other stakeholder outreach
7. Adopt protected instream flows, incorporating public comment
8. Identify and include all affected water users and dam owners in the water management plan development
9. Adopt a Lamprey River Water Management Plan, incorporating public comment
10. Administer initial implementation of the Water Management Plan
11. Report annual water use versus stream flow for all Designated Rivers

## 12. Annual and periodic reports to the NH state legislature

### **Instream Flow activities during 10/01/07 through 3/31/08**

#### **Annual Water Use versus Stream Flow Report**

The Annual Water Use versus Stream Flow Report for 2005 required by the Instream Flow Rules (Env-Ws 1903.02) was worked on but not finished. An additional staff person was assigned to this project and most of the 2005 river assessments were completed, but she left the position before the report was checked and compiled. A new staff person is being hired using this grant funding and is tasked primarily with completing and publishing the 2005 and later reports. She starts in May 2008.

#### **NEPA review**

A grant requirement for NEPA review prior to the development of the Lamprey Water Management Plan was discussed with NOAA personnel. Grant application documents discuss implementation of the Water Management Plan, but implementation will not be funded using grant funds since funding for DES staff is expected to be expended before the implementation phase.

#### **Stream gage network development**

Approval by the state legislature of capital budget funding for installation of stream gages in the summer of 2007 resulted in a proposal from USGS September 27, 2007. Gage station components and locations were described by the Department and reviewed in the context of the Stream Gage Task Force Report of September 2006. Instream flow support was a major factor in determining gage location priorities. Approval of 15 gage locations for installation beginning in 2007 and continuing through September 2009 was accomplished by augmenting the state's capital budget funding with federal funding. After September 2009, operational funding will be needed to keep these gages on line.

#### **DES staff**

Wayne Ives's funding source was changed from this grant to a state funding source. Wayne Ives has been funded under the state budget since July 1, 2007. Funding under this grant will continue to support, Steve Gaughan, GIS specialist. Steve Gaughan is budgeted for 125 hours.

The remaining funding is reserved for a new, part-time, temporary position titled Instream Flow Environmentalist (TEMP\_23). Primary responsibility of this position is the completion of the annual water use versus stream flow assessments and reporting. The position is for 30 hours per week until May 2009 when the Personnel class funding will be expended. The position was posted to DES and NH Department of Personnel websites February 11, 2008 and notifications sent by email to interested parties in the Bureau's database. Applications were reviewed by DES staff to select the top four for interviews. Wayne Ives, Instream Flow Specialist, will supervise this position.

#### **Support for the Instream Flow Advisory Committees**

Department personnel provided administrative support for the two advisory committees overseeing the work conducted on each of the pilot rivers.

##### **Membership changes**

None.

### **Committee Reports**

The Technical Review Committee (TRC) and Water Management Planning Area Advisory Committee (WMPAAC) reports for each river, due annually by November 1, were completed and were incorporated into the 2007 report to the Senate Bill 330 committee describing the pilot program's progress. SB 330 is the legislative oversight committee for the Instream Flow Program.

#### **Instream Flow Committee meetings**

The Lamprey WMPAAC and TRC did not meet between October 1, 2007 and March 31, 2008. The Lamprey TRC is preparing to meet in June 2008 to review the draft Proposed Lamprey Protected Instream Flow Report due in May.

Souhegan TRC has completed the Committee's primary duty described by Laws of 2002, Chapter 278 which was to direct the Department in the conduct of the Protected Instream Flow Study. The Committee will continue to exist to oversee implementation of the provisions of the Pilot Program. The Souhegan TRC did not meet during this reporting period.

Souhegan WMPAAC met October 16, 2007 to begin working on their part in coordinating the Water Management Plan.

### **Instream Flow Presentations**

DES staff gave presentation to various organizations to promote Instream Flow issues and the methods be used by DES to protect water quantity. These are the presentations that were given during this reporting period.

Wayne Ives, Instream Flow Specialist, gave a presentation to the Pemigewasset River Local Advisory Committee on November 27, 2007 in Plymouth, NH.

Wayne Ives, Instream Flow Specialist, wrote an article for Meanderings, the annual newsletter of the Rivers Management and Protection Program, titled *Souhegan Protected Instream Flows established as Water Quality Standards*, and including a sidebar describing the Natural Flow Paradigm. The Natural Flow Paradigm was used as a conceptual model for describing protected flows for the Souhegan River. The article will be published May 2008.

Preparations were begun for a presentation to the NH Water Conference to be held in Concord, NH on April 16, 2008 and for a field trip on May 14, 2008 on the Lamprey River for the Rivers Management Society meeting in Portland, Maine being held May 12-15, 2008.

### **Instream Flow contract extensions and revisions**

None occurred during this period. However, the remaining \$29,317 in the Contractual Class is being retained to fund a third-party review of the Lamprey and Souhegan Protected Instream Flow study results and methods. The plan is to hire the Instream Flow Council to identify and manage three reviewers, qualified in fish studies, statistics, and incremental flow modeling, with the object of evaluating and critically reviewing the methods and results of the Lamprey and Souhegan protected instream flow studies. The Lamprey consultants will present the methods and results, and be available to respond to questions from the reviewers. Part of these funds are expected to go to the Instream Flow Council to support their coordination efforts and compensate the reviewers' expenses and part would go to the Lamprey consultants for presentations of the methods and results to the reviewers. The results will be three reviews of the science of the pilot program that will be presented to the legislature to support decision making on the direction of future instream flow studies.

### **Souhegan Pilot Program**

As last reported, the February 5, 2007 version of the Souhegan PISF went to the Public Hearing (Task 6) for public review and comment March 21, 2007. The review, comment response and revisions to the report were completed February 26, 2008. A presentation of the study results was given March 11, 2008 to Commissioner Burack and Assistant Commissioner Walls. The report and a document Commissioner's Declaration establishing the protected flows as water quality standards for the Designated River were submitted to the Commissioner for approval and his signature March 31, 2008.

The Souhegan Water Management Plan continues to be developed. Draft Dam Management sub-plans and Conservation sub-plans were developed and reviewed. The Water Management Plan that describes the selected alternatives is scheduled to go before the public at a public hearing in 2008. The current schedule expects adoption of the Water Management Plan in January 2009.

The Department is continuing to develop the webpage that will present the protected instream flow conditions relative to stream flow in real time. The web page will make use of USGS stream gage data to compare current conditions to the protected flow magnitudes and durations during all periods of the year. This is proposed as the means for all water users and dam owners to determine the level of management required under their individual water management plans.

### **Lamprey Pilot Program**

The Lamprey field mapping and data collections under the consultant's SOW Task 5 were by the end of the 2007 field season and analysis of the data was conducted during this reporting period. A draft report is scheduled for completion by May 12, 2008 when it will be reviewed by the Lamprey Technical Review Committee prior to being presented at a public hearing sometime this summer.

Data collection for the Lamprey Water Management Plan has begun. Information related to water users and dam owners is being compiled to support water management plan development. Although planned to be completed by January 2009, this will require more time in 2009.

## **2. Expenditures**

Expenditures under the grant are for two cost areas: 1) the Lamprey River Instream Flow consultant contract, and 2) for Department technical and administrative staff, overhead, equipment, travel, supplies, and direct or other costs to support the NH Instream Flow program. DES has encumbered \$287,000 in the Contractual Class for the Lamprey Program and plans to use the remaining unencumbered \$29,317 in this class for the third-party review described above. DES will continue to use the remaining \$227,783 for supporting staff for the Instream Flow Program.

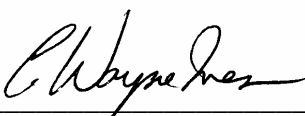
Expenditures during this reporting period summed to \$1,327.66 representing Department staff time, benefits, direct and indirect costs, supplies, and overtime. Costs are not scheduled—consultant fees are for completed Scope of Work tasks only and Department staff charges time and expenses for activities supporting the NH Instream Flow Program. No contractor invoices were submitted during this reporting period. The draft Lamprey Protected Instream Flow Report (Lamprey SOW Task 5) is a major effort and will be completed by review and approval by the Lamprey Technical Review Committee of a final version ready to go to the public hearing

(Lamprey SOW Task 6.) The time to complete Task 5 will depend on the review of the Technical Review Committee.

The Department requested, and was approved by Governor and Executive Council October 17, 2007, to be allowed to revise the budgeting of funds from the Contractual Class to two Fringe Benefits Classes in the amount of \$11,669.81. This was necessary to offset higher than budgeted fringe benefits costs. This revision represented less than 10% of the budget in cumulative changes (2.14% with total changes of 5.34%).

The Department requested, and was approved by Governor and Executive Council January 30, 2008, to be allowed to revise the budgeting of funds from the Contractual Class to Personnel Class in the amount of \$19,440. These changes did not exceed 10% of the grant budget.

The Personnel and Benefits Classes' existing and transferred funds will continue to support the GIS specialist position and a new, part-time, temporary position of Instream Flow Environmentalist. Adding this position was discussed with NOAA personnel. Available funds will support this new position at \$19.97/hour at 30 hours per week for approximately one year. This position will work on instream flow tasks.



May 9, 2008

Signature

Date

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